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DISTRICT ATTORNEY



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County of Allegheny

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Mr. Jack Prisby
115 Cindy Ln., Gulf Highlands
Panama City Beach, Florida 32407

June 28, 2016

Officer Jason Woleslagle
Pleasant Hills Police Department
410 Bruceton Road
Pittsburgh, PA 15236-4500

In re: Appeal of denial of Open Records Request

Dear Open Records Officer Woleslagle and Mr. Prisby:

I am the Open Records Appeal Officer for the District Attorney of Allegheny County. On or about June 24, 2016 I received a Right to Know Appeal which was forwarded to me by J. Chadwick, Esquire, Appeals Officer, Office of Open Records.

From the correspondence I received it appears that on May 27, 2016 Mr. Prisby made the following request for records from the Pleasant Hills Police Department:

Since charges were dismissed and are now “open records”, any and all evidence, testimony, transcripts, etc. made by Margaret Elizabeth Ali and Haley Lynn Kelly (Haeck) that led to charges against me.

On June 3, 2016 Officer Jason Woleslagle wrote to Mr. Prisby and provided him with a redacted copy of the Incident Report relating to the incident involving the respective parties. Some information was withheld based upon the following explanation:

However the Pleasant Hills Police Department has withheld information that is exempt from disclosure by law. We redacted, “A record of an agency relating to or resulting in a criminal investigation including: “Complaints of potential criminal conduct other than a private criminal complaint,” “Investigative materials, notes, correspondence, videos, and reports,” “Victim information, including and (sic) information that would jeopardize the safety of the victim,” “A record that is disclosed would reveal the institution, progress or result of a criminal investigation except the filing of criminal charges,” as outlined in Section 708(b).

This information is exempt from disclosure under section 708(b)(16)(i); 708(b)(16)(ii); 708(b)(16)(v) & 708(b)(16)(vi)(A) respectively, of the PA Right-to-Know law.

As the Office of Open Records explained in *Jones v. Pennsylvania Game Commission*, OOR Dkt. AP 2009-0196 records pertaining to a closed criminal investigation remain protected because Section 708(b)(16) expressly protects records relating to the result of an criminal investigation and thus remain protected even after the investigation ends. See also, *State Police v. Office of Open Records*, 5 A.3d 473 (Pa. Cmwlth. 2010); *Sherry v. Radnor Twp. School District*, 20 A.3d 515 (Pa. Cmwlth. 2011). Courts have turned to CHRIA for a definition of “investigative information.” See *Hunsicker v. Pennsylvania State Police*, 93 A.3d 911, 912 fn.#6 (Pa. Cmwlth. 2014) (“[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing....”).

I must therefore deny this appeal. Please be advised that the parties have 30 days to appeal this decision to the Court of Common Pleas. See 65 P.S. §67.1302.

Very Truly Yours,

Michael W. Streily
Deputy District Attorney